

OPEN MEETING ITEM

COMMISSIONERS
GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS



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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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DATE: JULY 25, 2011

DOCKET NO.: T-20675A-09-0214

JUL 25 2011

TO ALL PARTIES:

DOCKETED BY

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Order on:

TELESPHERE ACCESS, LLC
(CC&N/RESELLER/FACILITIES-BASED)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

AUGUST 3, 2011

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

AUGUST 16, 2011 and AUGUST 17, 2011

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 GARY PIERCE - Chairman
4 BOB STUMP
5 SANDRA D. KENNEDY
6 PAUL NEWMAN
7 BRENDA BURNS

8 IN THE MATTER OF THE APPLICATION OF
9 TELESPHERE ACCESS, LLC FOR APPROVAL
10 OF A CERTIFICATE OF CONVENIENCE AND
11 NECESSITY TO PROVIDE RESOLD LONG
DISTANCE, RESOLD LOCAL EXCHANGE,
FACILITIES-BASED LOCAL EXCHANGE,
AND FACILITIES-BASED LONG DISTANCE
TELECOMMUNICATION SERVICES IN
ARIZONA.

DOCKET NO. T-20675A-09-0214

DECISION NO. _____

OPINION AND ORDER

12 DATE OF HEARING: May 9, 2011

13 PLACE OF HEARING: Phoenix, Arizona

14 ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey

15 APPEARANCES: Mr. Bradley S. Carroll, SNELL & WILMER, L.L.P., on
16 behalf of Applicant; and

17 Mr. Wesley Van Cleve, Staff Attorney, Legal Division,
18 on behalf of the Utilities Division of the Arizona
Corporation Commission.

19 **BY THE COMMISSION:**

20 On May 6, 2009, Telesphere Access, LLC ("Telesphere" or "Company") filed with the
21 Arizona Corporation Commission ("Commission") an application for approval of a Certificate of
22 Convenience and Necessity ("CC&N") to provide resold long distance, resold local exchange,
23 facilities-based local exchange, and facilities-based long distance telecommunication services in
24 Arizona. Telesphere's application also requests a determination that its proposed services are
25 competitive within Arizona.

26 On August 11, 2010, the Commission's Utilities Division ("Staff") filed a Staff Report
27 recommending approval of Telesphere's application, subject to certain conditions.

28 On October 4, 2010, by Procedural Order, the hearing on the application was set to commence

1 on November 23, 2010; Telesphere was directed to publish notice of the application and hearing date;
2 and other procedural deadlines were established.

3 On October 12, 2010, by Procedural Order, the hearing date was amended due to rescheduling
4 of the Commission's Open Meeting.

5 On December 2, 2010, Charles Eastwood filed public comments regarding Telesphere's
6 application, alleging that Telesphere and other telephone companies are providing phone numbers to
7 phony businesses, whose phone numbers get placed in directory listings of the telephone companies,
8 and that consumers are thereby being misled.

9 On December 3, 2010, a full public hearing convened before a duly authorized Administrative
10 Law Judge ("ALJ") of the Commission. Staff appeared through counsel. Mr. Kristopher Twomey
11 was present on behalf of Telesphere. It was determined that Telesphere was not represented by local
12 counsel and therefore was not in compliance with Arizona Supreme Court Rules 31 and 38 and
13 A.R.S. § 40-243, with respect to the practice of law in Arizona. It was also unclear whether
14 Telesphere had published notice of its pending application or the hearing date. Based on discussions
15 with the parties, the hearing was vacated.

16 On December 7, 2010, by Procedural Order, the hearing in this matter was reset to begin
17 February 14, 2011, and other filing deadlines were established.

18 On December 30, 2010, Telesphere filed a request for an extension of time, until January 17,
19 2011, to publish notice of the application and to file its affidavit of publication ("Request").

20 On the same date, Telesphere filed responses to the public comments filed by Charles
21 Eastwood in this docket.

22 On January 6, 2011, a telephonic procedural conference was held with Telesphere and Staff to
23 discuss Telesphere's Request and proposed publication of notice. Based on Telesphere's application
24 to provide telecommunication services throughout Arizona, Telesphere was informed that its
25 proposed publication area was inadequate, as it included only a small portion of the State, and that
26 publication needed to be effectuated in every county in which Telesphere desired to provide service.
27 Telesphere was also informed that it needed to comply with Arizona Supreme Court Rules 31 and 38
28 and A.R.S. § 40-243 with respect to practice of law in Arizona and before the Commission.

1 Telesphere requested that the hearing in this matter be continued to March 2011 to allow Telesphere
2 more time to seek local counsel and to publish notice of the application and hearing.

3 On January 7, 2011, a Procedural Order was issued continuing the hearing to March 23, 2011;
4 requiring publication of notice; and establishing other filing deadlines. The Procedural Order also
5 directed Telesphere to have notice of its application and the hearing date published no later than
6 February 3, 2011.

7 On February 11, 2011, Telesphere filed an Affidavit of Publication showing that notice of
8 Telesphere's application and the hearing date had been published in the *Arizona Republic*, a statewide
9 publication, on February 2, 2011.

10 On February 18, 2011, Telesphere filed a Notice of Appearance of Counsel, stating that
11 Telesphere would be represented by Bradley S. Carroll, an Arizona-licensed attorney.

12 On the same date, Charles Eastwood filed a Motion to Intervene in this matter ("Motion").
13 Mr. Eastwood's Motion stated that he is substantially affected by the issues in this proceeding
14 because he has filed a lawsuit in Maricopa County Superior Court (CV-2010-027605) alleging that
15 various telecommunication companies like Telesphere provide telephone numbers to businesses that
16 have no physical addresses or are not legitimate businesses. The Motion further stated the telephone
17 numbers provided by Telesphere and other telecommunication companies get placed in a database
18 that generates a "listing" for the bogus companies and that those false "listings" detract business from
19 legitimate companies like his.

20 On March 17, 2011, by Procedural Order, Staff and Telesphere were directed to file responses
21 to the Motion and the hearing was continued from March 23, 2011, to May 9, 2011, to allow for the
22 filing of the responses.

23 On March 30, 2011, Staff filed a Response to Charles Eastwood's Motion to Intervene. Staff
24 stated that the majority, if not all, of the issues raised in the Motion go beyond the scope of the
25 application filed by Telesphere. Staff expressed concern that the issues raised in the Motion would
26 unduly broaden the scope of the proceeding; that although Staff that does not oppose intervention by
27 Mr. Eastwood, Staff requested that the hearing be limited to issues specifically relevant to the
28 application filed by Telesphere.

1 On April 8, 2011, Telisphere filed a Response to Mr. Eastwood's Motion and requested that
2 the Motion be denied. Telisphere stated that under A.A.C. R14-3-105, the issues raised in the Motion
3 would unduly broaden the scope of the CC&N application proceeding. Further, Telisphere stated
4 that the issues raised by the Motion would be more appropriately addressed in a generic state or
5 Federal proceeding which would include all telecommunication providers and not just Telisphere.
6 Telisphere states that the issues raised in the Motion are not relevant or appropriate in a state CC&N
7 proceeding and that Mr. Eastwood has not demonstrated that he is substantially affected by the
8 CC&N proceeding.

9 On April 20, 2011, Charles Eastwood filed a Reply to Staff's and Telisphere's Response to
10 Motion to Intervene ("Reply"). The Reply stated Mr. Eastwood has previously requested that
11 Commissioners establish a global rule change governing telecommunication companies' directory
12 listings; that Maricopa County Superior Court has dismissed the lawsuit as to all telecommunication
13 defendants; that portions of Telisphere's proposed tariff address directory listings; that the
14 Commission should take remedial action to make all telecommunication carriers comply with the
15 directory listings issues raised in the Motion; that Telisphere and its parent company should be
16 ordered to produce a listing of all "locksmith" companies they provide service to; and that the hearing
17 should be continued for 30 to 60 days to allow for inspection of the documents from Telisphere.

18 On April 22, 2011, Telisphere filed a Supplemental Response to Mr. Eastwood's Reply.
19 Telisphere reiterated its position that the Motion would broaden the scope of the proceeding and that
20 a generic rulemaking would better address the issues raised by Mr. Eastwood and that the Motion
21 should be denied. Alternatively, Telisphere states that if intervention is granted, it should be
22 conditioned on not continuing the hearing date and that the issues be limited to those relevant to a
23 CC&N application.

24 On April 28, 2011, by Procedural Order, Mr. Eastwood's Motion was denied.

25 On May 9, 2011, the hearing was held on the application as scheduled. Telisphere and Staff
26 appeared through counsel and presented testimony and evidence on the application. Mr. Eastwood
27 appeared and presented public comments. Mr. Eastwood reiterated comments previously filed in the
28 docket as well as filed in his motion to intervene. No other member of the public appeared to present

1 public comment. At the conclusion of the hearing, Staff was directed to file a late-filed exhibit.

2 On the same date, Staff filed, as a late-filed exhibit, copies of Telesphere's responses to
3 Staff's data requests.

4 Upon receipt of the late-filed exhibits, the matter was taken under advisement pending
5 submission of a Recommended Opinion and Order to the Commission.

6 On June 14, 2011, Patrick J. Paul of Snell & Wilmer, L.L.P., filed Notice of Substitution of
7 Counsel.

8 * * * * *

9 Having considered the entire record herein and being fully advised in the premises, the
10 Commission finds, concludes, and orders that:

11 **FINDINGS OF FACT**

12 1. Telesphere is a domestic limited liability corporation organized under the laws of
13 Arizona and is authorized to transact business in Arizona.¹

14 2. Telesphere is a wholly owned subsidiary of Telesphere Networks, Ltd. ("Telesphere
15 Networks"), a Washington Corporation, headquartered in Seattle, Washington.²

16 3. Telesphere Networks, formed in 2000 as a wireless Internet Service Provider ("ISP"),
17 provides interconnected VoIP and wireline broadband internet services to business customers.³

18 4. Telesphere anticipates providing service as a competitive local exchange service
19 ("CLEC") selling last mile connectivity to service providers.⁴

20 5. Telesphere's proposed services in Arizona will focus on businesses or private
21 networks to provide internet access, wide area networking, and VoIP services.⁵

22 6. On May 6, 2009, Telesphere filed an application with the Commission for a CC&N to
23 provide resold long distance, resold local exchange, facilities-based local exchange, and facilities-
24 based long distance telecommunication services in Arizona and requesting that its proposed services
25 be classified competitive.

26 ¹ Telesphere Application at Attachment A.

27 ² Id.

³ Telesphere's response to STF 1.2.

⁴ Tr. at 7.

28 ⁵ Id.

1 7. Notice of the application was given in accordance with the law.

2 8. Staff recommends that the Commission conditionally approve Telesphere's
3 application for a CC&N to provide intrastate telecommunication services in Arizona.

4 9. Staff further recommends that:

5 a. Telesphere comply with all Commission Rules, Orders, and other requirements
6 relevant to the provision of intrastate telecommunications services;

7 b. Telesphere abides by the quality of service standards that were approved by the
8 Commission for Qwest in Docket No. T-01051B-93-0183;

9 c. Telesphere be prohibited from barring access to alternative local exchange
10 service providers who wish to serve areas where Telesphere is the only local
11 provider of local exchange service facilities;

12 d. Telesphere notify the Commission immediately upon changes to Telesphere's
13 name, address or telephone number;

14 e. Telesphere cooperate with Commission investigations including, but not
15 limited to customer complaints;

16 f. The rates proposed by Staff are for competitive services. In general, rates for
17 competitive services are not set according to rate of return regulation. Staff
18 obtained information from Telesphere indicating that its net book value or fair
19 value rate base at the end of 12 months of operation would be \$50,000. Staff
20 has reviewed the rates to be charged by the Company and believes they are just
21 and reasonable as they are comparable to other wholesale transport providers
22 offering service in Arizona. The rate to be ultimately charged by the Company
23 will be heavily influenced by the market. Therefore, while Staff considered
24 the fair value rate base information submitted by the Company, the fair value
25 information provided was not given substantial weight in Staff's analysis;

26 g. Telesphere offer Caller ID with the capability to toggle between blocking and
27 unblocking the transmission of the telephone number at no charge;

28 h. Telesphere offer Last Call Return service that will not return calls to telephone
numbers that have the privacy indicator activated; and

i. The Commission authorizes Telesphere to discount its rates and service
charges to the marginal cost of providing the services.

10 10. Staff recommends that Telesphere's CC&N be considered null and void after due
11 process if Telesphere fails to comply with the following conditions:

12 a. Telesphere shall docket conforming tariffs for each of its proposed services
13 within 365 days from the date of a Decision in this matter, or 30 days prior to
14 providing service, whichever comes first. The tariffs submitted shall coincide
15 with the Application.

16 b. Telesphere shall:

- i. Procure either a performance bond or irrevocable sight draft letter of credit ("ISDLC") equal to \$235,000. The minimum performance bond or ISDLC of \$235,000 should be increased if at any time it would be insufficient to cover advances, deposits, and/or prepayments collected from Telesphere's customers. The performance bond or ISDLC should be increased in increments of \$117,500. This increase should occur when the total amount of advances, deposits, and/or prepayments is within \$12,500 of the total performance bond or ISDLC amount; and
- ii. File the original performance bond or ISDLC with the Commission's Business Office and copies of the performance bond or ISDLC with Docket Control, as a compliance item in this docket, within 90 days of the effective date of the Decision in this matter or 10 days before the first customer is served, whichever comes first. The original performance bond or ISDLC must remain in effect until further order of the Commission. The Commission may draw on the performance bond or ISDLC, on behalf of, and for the sole benefit of the Company's customers, if the Commission finds, in its discretion, that the Company is default of its obligations arising from its Certificate. The Commission may use the performance bond or ISDLC funds, as appropriate, to protect the Company's customers and the public interest and take any and all actions the Commission deems necessary, in its discretion, including, but not limited to returning prepayments or deposits collected from the Company's customers.
- iii. Telesphere shall notify the Commission through a compliance filing within 30 days of the commencement of service to end-user customers; and
- c. Telesphere should abide by the Commission adopted rules that address Universal Service in Arizona, which indicates that all telecommunications service providers that interconnect into the public switched network shall provide funding for the Arizona Universal Service fund. Telesphere should make the necessary monthly payments required under by A.A.C. R14-2-1204(B).

11. Staff further recommends that approval of the Application be conditioned on the following:

- a. That, given the limited financials provided by Telesphere on its own behalf, the parent, Telesphere Networks Ltd, should be required to pledge its financial resources until such time as Telesphere is able to file two entire years of financial statements on its own behalf; and
- b. That Telesphere's Application be approved based upon its representation to the Commission that Telesphere will be providing local exchange service to end-users in Arizona. Should Telesphere not provide service directly to end-user customers, it shall notify the Commissions and file for cancellation of its CC&N.

Technical Capability

12. Telesphere is currently authorized to provide telecommunication services in Nevada,

1 has a pending application in Colorado, but has not begun service in any jurisdiction.

2 13. Telesphere's top executives have a combined total of more than 100 years experience
3 in the telecommunication industry.⁶

4 14. Telesphere stated that it has not had an application for authority to provide service
5 denied in any jurisdiction.⁷

6 15. Telesphere's witness stated that Telesphere Networks has already requested service
7 from Telesphere and that the Company anticipates receiving other requests for service.⁸

8 16. Under its proposed plan, Telesphere will be providing last mile connectivity to
9 Telesphere Networks to deliver VoIP based telephone service and private networking services such
10 as internet access to customer premises.⁹

11 17. Telesphere's witness stated that Telesphere anticipates collocating in Qwest's central
12 offices and that the Company is estimating it will have three to six employees in Arizona.¹⁰

13 18. Based on Staff's analysis of the Company, Staff concluded that Telesphere has the
14 technical experience to provide the proposed services described in its application.¹¹

15 **Financial Capabilities**

16 19. Telesphere provided financial statements for its parent company Telesphere Networks
17 for the period ending December 31, 2008.¹² Telesphere Networks' financial statements reported
18 Total Assets of approximately \$6 million; Shareholder equity of approximately \$3.1 million, and a
19 Net Income of approximately negative \$9 million.

20 20. Telesphere's application states it will not rely on the financial resources of its parent
21 company to provide its proposed services in Arizona.¹³ Given Telesphere's statement that it will not
22 rely on the finances of its parent and Telesphere's limited financials, Staff recommends that approval
23 of Telesphere's application be contingent on Telesphere Networks' pledge of its own financial
24

25 ⁶ Telesphere's response to STF 1.3 (June 11, 2009).

⁷ Application at A-18.

26 ⁸ Telesphere's witness Chief Technology Officer, Sanjay Srinivasan.

⁹ Tr. at 12-13.

¹⁰ Tr. at 13.

27 ¹¹ Staff Report at 2.

¹² At the time Telesphere filed the above application, it had been in existence for approximately two months (formed March 2009) and therefore was unable to provide two years of financial statements.

28 ¹³ Application at B-3.

1 resources to Telesphere until such time as Telesphere is able to file two years of financial statements
2 on its own behalf.¹⁴

3 21. Based on the information contained in Telesphere's proposed tariff, Staff recommends
4 that Telesphere procure a performance bond or ISDLC in the amount of \$235,000.¹⁵

5 **Rates and Charges**

6 22. Staff believes Telesphere will have to compete with incumbent local exchange carriers
7 ("ILECs"), along with various CLECs and interexchange carriers ("IXCs") to provide its proposed
8 services.

9 23. Staff reviewed Telesphere's proposed tariff and concluded that Telesphere's proposed
10 rates are comparable to other competitive local carriers, local incumbent carriers, and major long
11 distance carriers doing business in Arizona. Therefore, given the competitive environment in which
12 Telesphere will be providing service, Staff believes Telesphere will not be able to exert any market
13 power and the competitive process will result in rates that are just and reasonable.

14 24. Telesphere requests a determination that its proposed rates are for competitive
15 services. Staff states that in general, rates for competitive services are not set in the same manner as
16 for non-competitive services and although Telesphere's FVRB of \$50,000 was taken into account as
17 part of Staff's analysis, Staff believes Telesphere's FVRB is too small to be given substantial weight
18 in this analysis.

19 **Local Exchange Carrier Specific Issues**

20 25. Staff recommends that pursuant to A.A.C. R14-2-1308(A) and federal laws and rules,
21 Telesphere should make number portability available to facilitate the ability of customers to switch
22 between authorized local carriers within a given wire center without changing their telephone number
23 and without impairment to quality, functionality, reliability, or convenience of use.¹⁶

24 26. In compliance with A.A.C. R14-2-1204, all telecommunications service providers that
25 interconnect into a public switched network shall provide funding for the Arizona Universal Service

26 _____
¹⁴ Staff Report at 12.

27 ¹⁵ Based on the Commission's bond requirements Staff recommends Telesphere procure a bond of \$10,000 for its resold
28 long distance, \$25,000 for its resold local exchange, and \$100,000 each for its facilities-based long distance, and
facilities-based local exchange services, for an aggregate amount of \$235,000.

¹⁶ Staff Report at 5.

1 Fund ("AUSF"). Staff recommends that Telesphere contribute to the AUSF as required by the
2 A.A.C. and that Telesphere make the necessary monthly payments as required under A.A.C. R14-2-
3 1204(B).¹⁷

4 27. In Commission Decision No. 59421 (December 20, 1995) the Commission approved
5 quality of service standards for Qwest which imposed penalties for unsatisfactory levels of service.
6 In this matter, Telesphere does not have similar history of service quality problems, and therefore
7 Staff recommends that the penalties outlined in the Qwest Decision not apply to Telesphere at this
8 time.¹⁸

9 28. In areas where Telesphere is the only local exchange service provider, Staff
10 recommends that Telesphere be prohibited from barring access to alternative local exchange service
11 providers who wish to serve the area.¹⁹

12 29. Telesphere will provide all customers with 911 and E911 service where available, or
13 will coordinate with ILECs and emergency service providers to facilitate the service.²⁰

14 30. Pursuant to prior Commission Decisions, Telesphere may offer customers local
15 signaling services such as Caller ID and Call Blocking, so long as the customer is able to block and
16 unblock each individual call at no additional cost.²¹

17 **Complaint Information**

18 31. The Commission's Consumer Services Section reports that there is no complaint
19 history for Telesphere in Arizona.

20 32. Staff confirmed that Telesphere's top executives have not been convicted of any
21 criminal acts in the past ten years.

22 33. Staff's review of the Company revealed that on September 9, 2007, the Federal
23 Communications Commission ("FCC") Enforcement Bureau assessed a forfeiture of \$16,000 to Rally
24 Capital, LLC ("Rally"), which holds a controlling capital stock interest in Telesphere Networks,
25

26 _____
27 ¹⁷ Staff Report at 5.

¹⁸ Id.

¹⁹ Staff Report at 6.

²⁰ Id.

²¹ Id.

1 Telesphere's parent company.²² According to Staff, on September 20, 2006, Rally accelerated
 2 conversion of Telesphere Networks' debt into equity, therefore eliminating all debt.²³ However,
 3 Telesphere Networks and Rally failed to file with the FCC an application for transfer of control,
 4 pursuant to the Telecommunications Act of 1996, Section 214.²⁴ Within 30 days of discovering the
 5 mistake, Telesphere Networks and Rally filed a consolidated application with the FCC.²⁵
 6 Subsequently, the Enforcement Bureau assessed the forfeiture of \$16,000 to Rally and Rally paid the
 7 amount due.²⁶ According to Staff, Telesphere submitted a statement that an inadvertent omission of
 8 the FCC information occurred when it filed its application and that neither Telesphere nor any of its
 9 officers has been involved in any other investigations or inquiries before any state or federal
 10 regulatory commission, administrative agency, or law enforcement agency during the last 24
 11 months.²⁷

12 34. Telesphere's witness stated that as of the date of the hearing he was not aware of any
 13 other complaints that have been filed against Telesphere or its parent company.²⁸ The witness also
 14 stated that Telesphere will have a regulatory compliance person located in its headquarters in Seattle,
 15 Washington to oversee regulatory issues for its proposed operations in Arizona.²⁹

16 Competitive Analysis

17 35. Telesphere is seeking a determination that its proposed services are competitive in
 18 Arizona.

19 36. Staff recommends approval of Telesphere's proposed services as competitive. Staff
 20 states that Telesphere will have to convince customers to purchase its services; Telesphere has no
 21 ability to adversely affect the CLEC or ILEC markets as the ILECs have a virtual monopoly on local
 22 exchange service in Arizona; and that alternative providers exist in the markets Telesphere desires to
 23 serve. Therefore, Staff believes Telesphere has no market power in the markets it wishes to serve and
 24

25 ²² Staff Report at 7.

26 ²³ Id. at 8.

27 ²⁴ Id.

28 ²⁵ Id.

29 ²⁶ Id.

²⁷ Telesphere email response to Staff dated June 24, 2009.

²⁸ Tr. at 15.

²⁹ Tr. at 16.

1 that Telesphere's proposed services should be classified as competitive.³⁰

2 37. Staff's recommendations, as set forth herein, are reasonable and should be adopted.

3 **CONCLUSIONS OF LAW**

4 1. Telesphere is a public service corporation within the meaning of Article XV of the
5 Arizona Constitution, A.R.S. § 40-281 and 40-282.

6 2. The Commission has jurisdiction over Telesphere and the subject matter of the
7 application.

8 3. Notice of the application was given in accordance with the law.

9 4. A.R.S. §§ 40-282 allows a telecommunications company to file an application for a
10 CC&N to provide competitive telecommunication services.

11 5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised
12 Statutes, it is in the public interest for Telesphere to provide the telecommunication services set forth
13 in its application.

14 6. The telecommunication services Telesphere intends to provide are competitive within
15 Arizona.

16 7. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules,
17 it is just and reasonable and in the public interest for Telesphere to establish rates and charges that are
18 not less than Telesphere's total service long-run incremental costs of providing the competitive
19 services approved herein.

20 8. Staff's recommendations, as set forth herein are reasonable and should be adopted.

21 **ORDER**

22 IT IS THEREFORE ORDERED that the application of Telesphere Telecom, LLC for a
23 Certificate of Convenience and Necessity to provide resold long distance, facilities-based long
24 distance, resold local exchange, and facilities-based local exchange services in Arizona, is hereby
25 conditionally approved, subject to Telesphere's compliance with the requirements set forth in
26

27 ³⁰ Staff Report at 8.

Findings of Fact Nos. 9, 10, and 11.

IT IS FURTHER ORDERED that if Telesphere Telecom, LLC, fails to comply with the Staff conditions described in Finding of Fact No. 10, the Certificate of Convenience and Necessity granted herein shall be considered null and void after due process.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2011.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

YBK:db

1 SERVICE LIST FOR: TELESPHERE ACCESS, LLC

2 DOCKET NO.: T-20675A-09-0214

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